AGENDA

GAUTIER PLANNING COMMISSION

December 7, 2017

5:00 PM

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE (VOLUNTEER)

III. APPROVAL OF AGENDA

IV. APPROVAL OF MINUTES

V. PUBLIC COMMENTS
(MATTERS OF THE PLANNING COMMISSION NOT LISTED ON THE AGENDA)

VI. OLD BUSINESS

VII. NEW BUSINESS

1. Deliverance Missionary Baptist Church request for a Conditional Use - Major that would allow a Church in a C-3, Highway Commercial Zoning District (GPC# 17-17-CU).

2. Request to amend the UDO to create a Special Exception (City initiated) (GPC#17-19-UDO)

VIII. GENERAL DISCUSSION

1. PREVIOUS CASE UPDATES

   A. 3612 NORCREST – REQUEST FOR A FIFTEEN FOOT (15') VARIANCE TO MINIMUM FRONT YARD SET-BACK REQUIREMENTS FOR AN ACCESSORY STRUCTURE IN A R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT (GPC CASE #17-15-VAR)

B. ERIC JAMES MINOR/GAUTIER AUTO SALES – 1517 OLD SPANISH TRAIL – REQUEST FOR A CONDITIONAL USE – MAJOR THAT WOULD ALLOW A USED CAR SALES LOT IN A C-2, COMMUNITY COMMERCIAL ZONING DISTRICT. (GPC CASE #17-16-CU)

2. PERMIT & TRC REPORTS

IX. ADJOURN

Gautier Planning Commission

Regular Meeting Agenda

December 7, 2017

GPC #17-17-CU

Deliverance Missionary Baptist Church

1412 HWY 90 Conditional Use-Major

VII. NEW BUSINESS

A. Deliverance Missionary Baptist Church request for a Conditional Use - Major that would allow a Church in a C-3, Highway Commercial Zoning District (GPC# 17-17-CU).

GAUTIER PUBLIC HEARING PROCESS (PLANNING COMMISSION)

Planning Commission Chairman to follow procedure below. All questions/comments to be directed to the Council and not to applicant, staff, or other attendees of the meeting.

1. Chairman announces the case.

2. Chairman makes statement, “This is a Public Hearing and all statements to be made need to be true and accurate for the record.”

3. Staff gives brief overview of case.

4. Applicant presents their case.

5. Anyone to speak in support of the Request? Please state your name and address for the record.

6. Anyone to speak in opposition of the Request? Please state your name and address for the record.

7. Any final comments from the applicant?

8. Questions from Commission?

9. Chairman closes public hearing – “This closes the Public Hearing portion of this case” bang of gavel

10. Motion/Deliberation/Vote

CITY OF GAUTIER
STAFF REPORT

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: December 7, 2017

Subject: Conditional Use-Major Permit for Deliverance Missionary Baptist Church at 1412 HWY 90 GPC #17-17-CU

REQUEST:

The Planning Department has received a request from Reverend Robert Coker representative of Deliverance Missionary Baptist Church, for a Conditional Use-Major Permit that would allow a Church or Place of Worship in a C-3 Highway Commercial Zoning District at 1412 HWY 90, PID #82436365.000. The application fee of $250 was paid on October 17, 2017. All public notice requirements have been met.

BACKGROUND:

The request property is zoned C-3 Highway Commercial.

1. Location: 1412 HWY 90 (See Exhibit A)

2. General features of the proposed project:
   Total Building Area: 1,200 square feet
   Site Size: 1.32 Acres
   Year Building Constructed: 1981

3. Potable Water and Wastewater Services: Existing from City

4. The building is existing and was previously used as a rental property. The last known use of the property was a church.

5. Current Zoning (See Exhibit B): C-3 Highway Commercial

6. Current Surrounding Zoning (See Exhibit B): C-3 Highway Commercial to the North, South, East, and West.

7. Current Surrounding Existing Land Use (See Exhibit C): Commercial-Retail to the North and South, Commercial Office to the East and Commercial Financial/Banking to the West.

8. Comprehensive Plan Future Land Use Designation (See Exhibit D): High Impact Commercial.

DISCUSSION:

The following addresses the review criteria for a Major Conditional Use outlined in Section 4.17.5 of the UDO.

A. The proposed use is compatible with the character of development in the vicinity relative to density, bulk and intensity of structures, parking, and other uses.

Staff Finding: The proposed use as church serves as a place of worship for the congregation. Staff finds that this use will be compatible with the properties in the vicinity due to the fact there are Commercial properties existing with surrounding uses; however, according to UDO Section 7.2.5 Table # 9, based on the number of chairs (members) called out in the applicant's narrative, the required number of parking spaces is 17. After visiting the site and reviewing the parking plan sketch included in the application, staff finds that the area designated for parking at this site is not sufficient to accommodate the number of required spaces for this specific use as called out in the UDO.

B. Any possible detrimental effects might occur as a result of the Conditional Use to the continued use, value, or development of properties in the vicinity.

Staff Finding: There is no evidence to indicate the proposed use will negatively affect the property values, or cause a detriment to the surrounding properties.

C. Whether or not the proposed use will adversely affect vehicular or pedestrian traffic in the vicinity.

Staff Finding: The applicant states that the church will be servicing approximately fifty (50) members with adequate parking. Staff finds that there is an existing parking lot which is of adequate size to accommodate the amount of parking spaces required by the Unified Development Ordinance for this use according to the applicant's statement of the number of members of the congregation.

D. If the proposed use can be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools.

Staff Finding: The proposed use can be accommodated by existing public services and facilities.

E. If the proposed use in harmony with the Comprehensive Plan.

Staff Response: Yes, the Comprehensive plan proposes High Impact Commercial in this area. The proposed use is a place of Worship (Church) which is allowed with a "Conditional Use" in the Unified Development Ordinance.

F. If the proposed use listed in the list of possible Conditional Uses in the particular Zoning District.

Staff Finding: Yes, according to the Unified Development Ordinance, a "Church or Place of Worship" is allowed with a "Conditional Use Major" in a C-3 Highway Commercial District.

G. Whether the proposed use will not be hazardous, detrimental, or disturbing, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances.

Staff Finding: There is no evidence that the proposed use poses a hazardous, detrimental or disturbing affect to present surrounding uses. .

H. Whether the use conforms to all district regulations for the applicable district in which it is located, unless other provisions are specifically set forth in the application.

Staff Finding: The proposed use will conform to district regulations. This will be ensured by the Planning Department upon review of final submittals before permits are issued.

DETERMINATION OF APPLICABLE LAW:

1. The UDO defines conditional uses as specific uses which are enumerated in each zoning district and which because of their nature are not allowed by right but may be allowed after the required review process. The City may specify certain conditions as necessary to make the use compatible with other uses in the same district. Conditional uses are issued for uses of land and uses designated "Conditional Uses-Major" are transferable from one (1) owner of land to another.

   The UDO further defines Conditional Uses-Major as uses that are not allowed by right but require a recommendation by the Planning Commission and the approval of the City Council. Additionally, if the conditional use is transferred to a new owner, the new owner must submit a letter to the Economic Development Director agreeing to the current terms and conditions before a business license may be issued.
2. Conditional Uses-Major requires a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

RECOMMENDATION:

Staff finds that the proposed use may be compatible and harmonious with the Highway Commercial District and recommends approval with the following conditions:

1. ADA accessible parking shall be installed which meets the requirements of the City of Gautier's Unified Development Ordinance and The Americans with Disabilities Act.

2. The UDO requirement for the number of parking spaces is satisfied through either On-Site Shared Parking as specified in UDO Section 7.2.8 or through Off-Site Cooperative Parking as specified in UDO Section 7.2.7.

CONCLUSION:

The Planning Commission may:

1. Recommend that City Council approve the Conditional Use-Major with the Conditions listed; or
2. Recommend that City Council approve the Conditional Use-Major with changes; or
3. Recommend that City Council deny the Conditional Use-Major.

ATTACHMENTS:

1. Applicant's Exhibit 1 – Application
2. City's Exhibit A – Location Map
3. City's Exhibit B – Existing Zoning Map
4. City's Exhibit C – Existing Land Use Map
5. City's Exhibit D – Future Land Use Map

GAUTIER, MISSISSIPPI

ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT

CONDITIONAL USE APPLICATION

Public Hearing Number

17-17-CU

TO BE HEARD BY GAUTIER PLANNING COMMISSION:		FEE:
Conditional Use - Major	X	$250.00
TO BE HEARD BY ECONOMIC DEVELOPMENT/PLANNING DIRECTOR:		**FEE:**
Conditional Use - Minor		$250.00

Name of Applicant: Deliverance Missionary Baptist Church

Name of Business: Same As Above Phone:

Property Address: 1410 Hwy 90 Mailing Address (if Different): Gautier, MS 39553

E-Mail Address: Williamsfoxy@bellsouth.net rev. coker 627-9880

Proposed Use Requiring Conditional Use: (Refer to Article V, UDO)

Proposed Location is: ☐ New Build ☐ Existing (with no modifications) ☐ Existing (with proposed modifications)

ATTACHMENTS REQUIRED AS APPLICABLE:

✓ 1. Answers to the Criteria for Approval (see attached).

✓ 2. Project Narrative (see attached).

0 4. Diagram of intended use (see attached).

N/A 4. Copy of protective covenants or deed restrictions, if any.

N/A 5. Copies of approvals, or requests for approval, from other agencies, such as, but not limited to, the Mississippi State Department of Health, U.S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources.

N/A 6. Any other information requested by the Economic Development/Planning Director and/or members of the Technical Review Committee.

✓ 7. Owner's Consent form, if anyone other than 100% sole owner makes application (see attached).

Signature of Applicant(s): Rev. Robert Coker Date of Application: 10.17.17

FOR OFFICE USE ONLY

Date Received 10-17-17 Verify as Complete

Fee Amount Received 250.00 Initials of Employee Receiving Application KM

OWNERS CONSENT AND DESIGNATION OF AGENT – CONDITIONAL USE

I, Rose Marie Luke, the fee simple owner(s) of the following described property:

Address:
1412 Hwy 90
Gautier MS 39553

Parcel ID No.: 82436365.000

hereby petition to the City of Gautier to *Grant a Conditional Use Major or* (Minor) of church (state proposed use from Article V of the Unified Development Ordinance) at the above reference property and affirm that Connie West (name of agent) is hereby designated to act as agent on my behalf to accomplish the above.

I certify that I have examined the application and that all statements and diagrams submitted are true and accurate to the best of my knowledge. Further, I understand this application; attachments and fees become part of the official records of the City of Gautier, MS, and are not returnable.

Rose Marie Luke
(Owner's Signature)

_____
(Owner's Signature)

Notary Information: State of North Carolina
County of Wake

The foregoing instrument was acknowledged before me this 13th day of October, 2017 by Rose Marie Luke,

who is personally known to me or has produced _____

as identification and who did take an oath.

Sarah B. Luke
(Printed Name of Notary Public)

Sarah B. Luke
(Signature of Notary Public)

Commission # _____. My commission expires 6/24/2020.

SARAH B. LUKE NOTARY PUBLIC WAKE COUNTY, NC
(Notary's Seal)

CONDITIONAL USE CRITERIA FOR APPROVAL - Complete either the Major Conditional Use section or Minor Conditional Use Section below. If more room is needed, answers can be provided on a separate sheet of paper.

MAJOR CONDITIONAL USE CRITERIA FOR APPROVAL

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District? YES
2. Please describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering or other plans.
3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain. NO
4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain. NO
5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools? YES
6. Is the proposed use in harmony with the Comprehensive Plan? Explain how. YES
7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain. NO
8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain. YES

MINOR CONDITIONAL USE CRITERIA FOR APPROVAL

1. Is the proposed use substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics, and environmental impacts? Explain.
2. Will the proposed use be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area? Explain.
3. Is the proposed use consistent with the Comprehensive Plan? Explain how.
4. Is the proposed use in conformance with specific site location, development, and operation standards as required by this Ordinance? Explain.

CONDITIONAL USE NARRATIVE – Describe the proposed project in detail. Include all types of business activities that will be conducted on-site, any out-door storage or seating proposed, anticipated traffic, access for pick-up/delivery vehicles, proposed improvements, etc. Use the space below or provide a separate type written sheet of paper and attach. Staff will provide guidance as needed on additional information needed in the narrative.

NARRATIVE

Deliverance Missionary Baptist Church will use this property Held Church services every Sunday and Wednesday with occasional Saturday and Monday nights. We will use the parking that has been dedicated to this property. Currently, our membership is approximately 50 with an expected growth to 100. There will be Religious Programs geared towards encouraging our parishoners and community to help create a safe and productive City/Community. We will abide by all city and state laws and will do our very best to be an asset to the community.

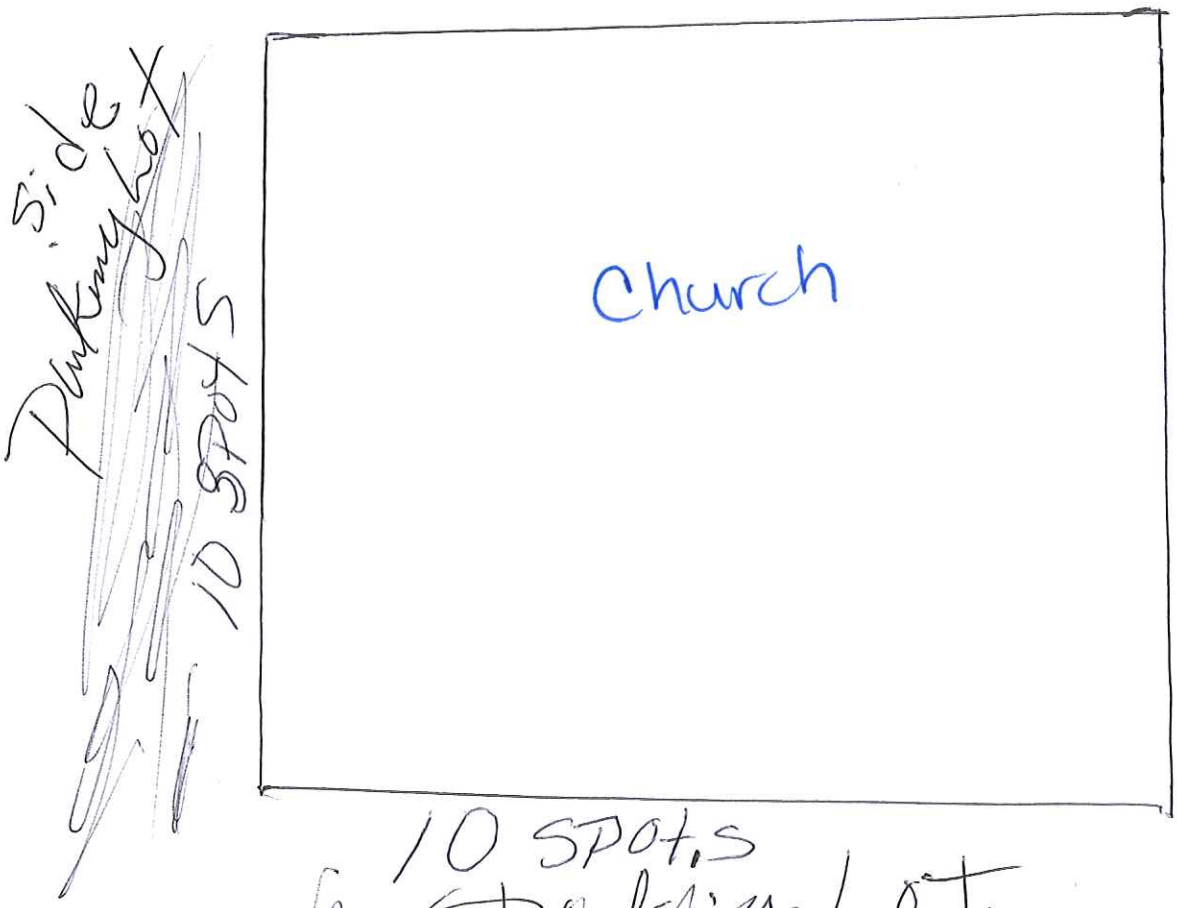
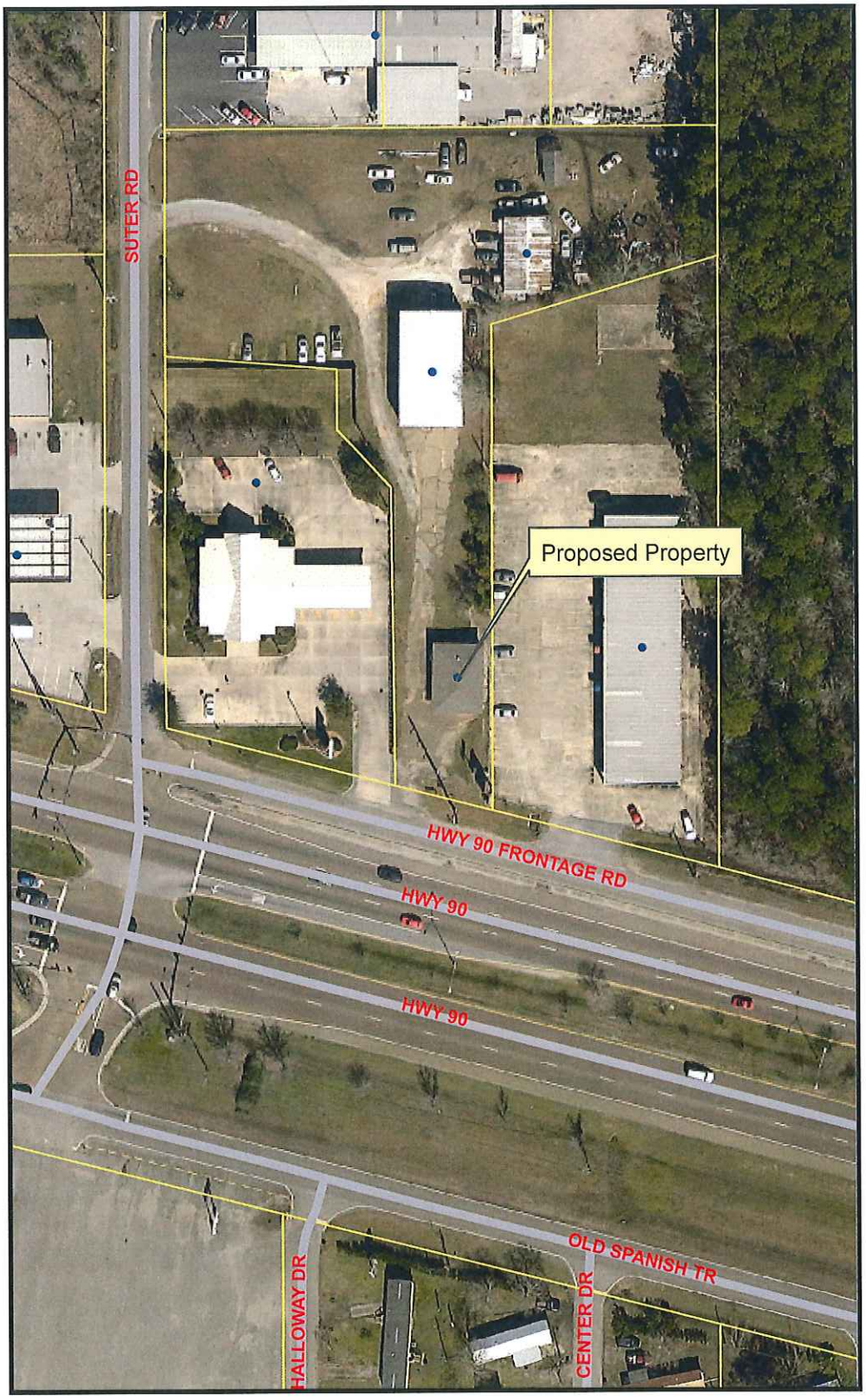

Church
Side Parking Lot
10 SPOTS
10 SPOTS
Parking Lot
front

Exhibit A
Location Map

City Of Gautier
Planning Department



Prepared by the
City of Gautier
Planning Department

Exhibit B
Existing Zoning Map

City Of Gautier
Planning Department

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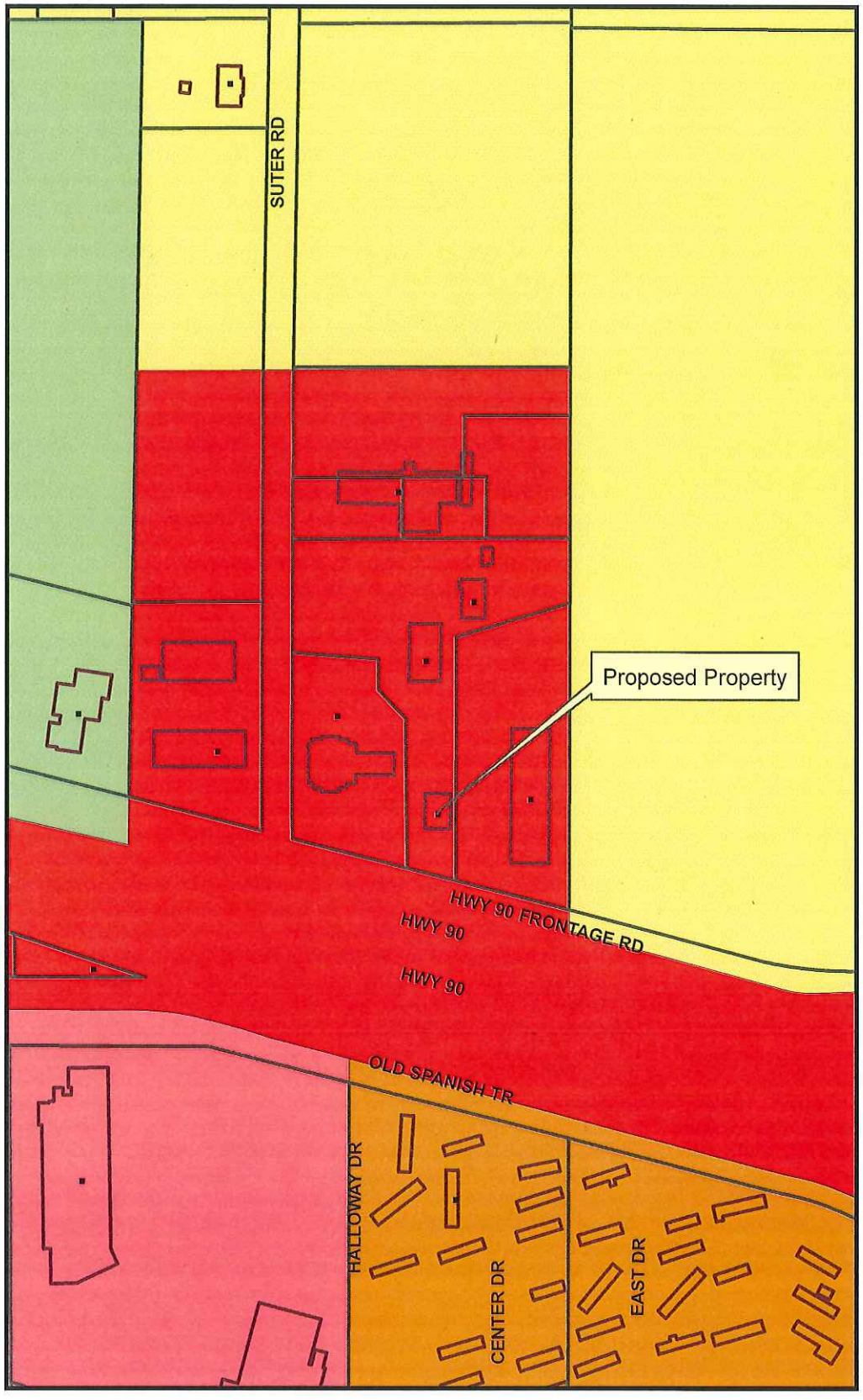
Prepared by the
City of Gautier
Planning Department



Legend

- <all other values>

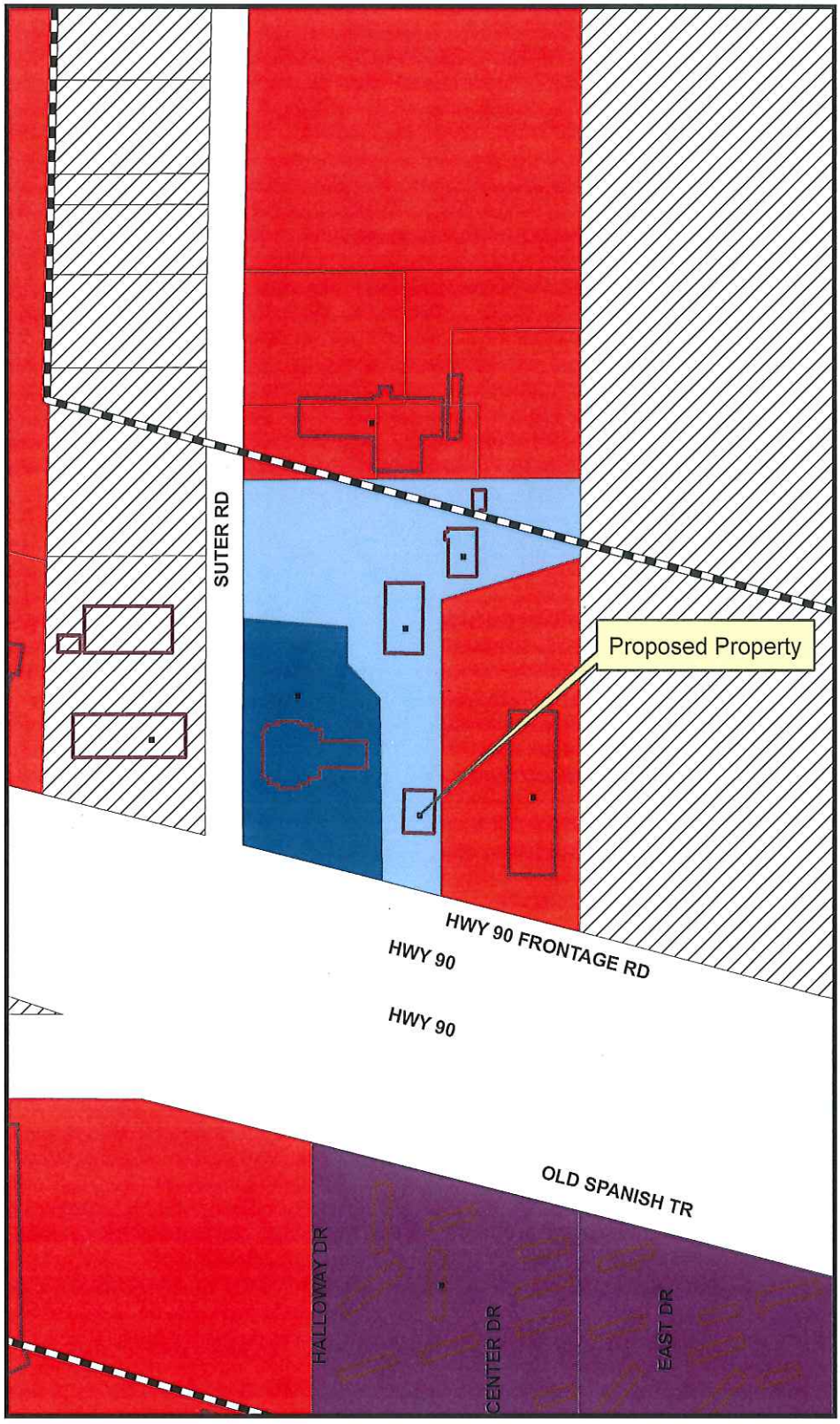
ZONECODE

- AG
- C-1
- C-2
- C-3
- I-2
- MURC-1
- MURC-2
- MURC-MW
- PL
- PUD
- R-1
- R-2
- R-3
- RE
- TC

Exhibit C
Existing Land Use Map

City Of Gautier
Planning Department

Prepared by the
City of Gautier
Planning Department



Legend

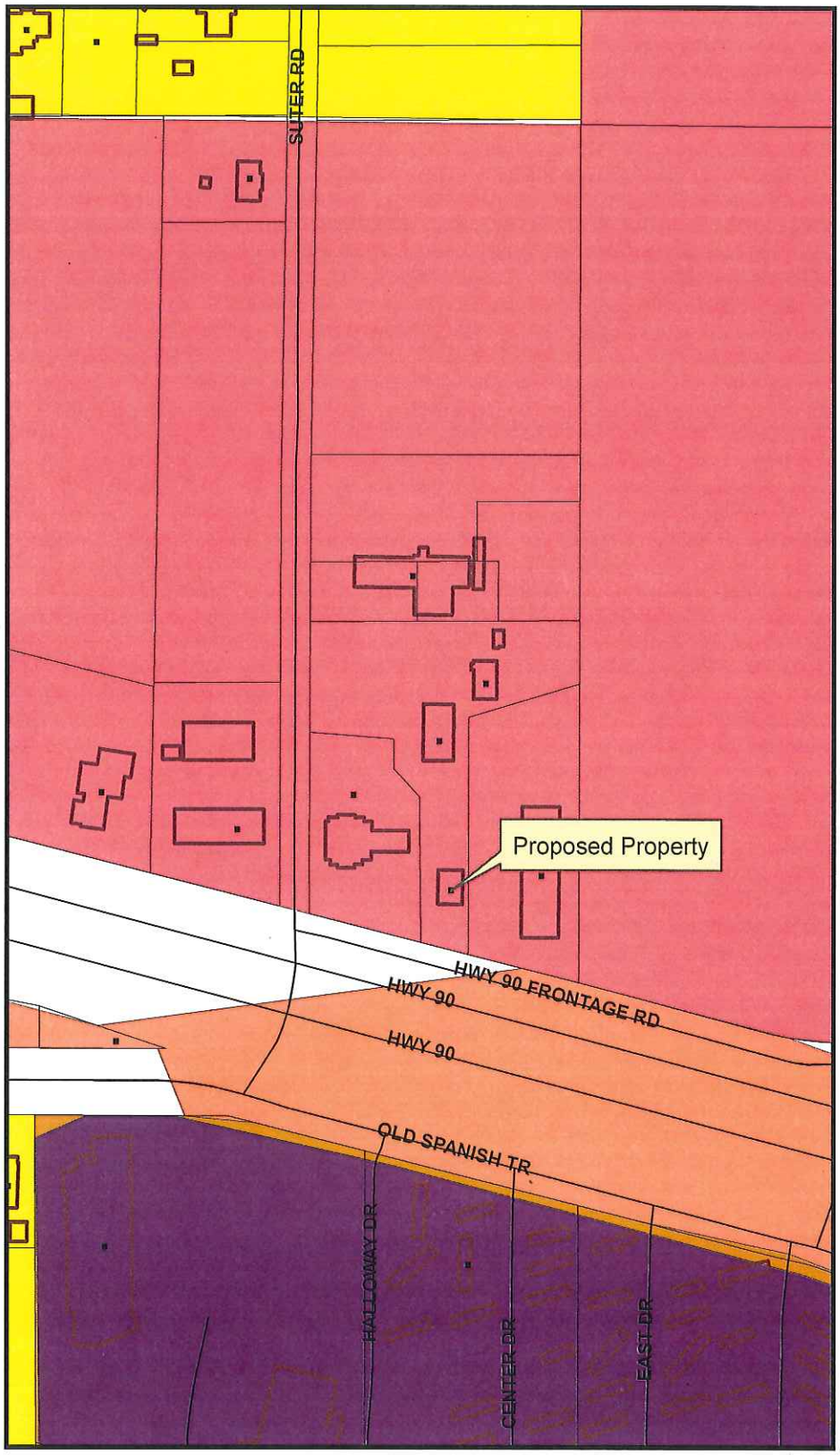
- City_Limits
- CorOverlay
- GautierParTrimmed

EXISTING LAND USE

- Commercial-Retail
- Conservation
- Civic
- Industrial
- Marina/Fish Camps
- High Density Residential
- Mobile Home
- Mobile Home Park
- Medium Density Residential
- Office
- Recreation
- Very Low to Low Density Residential
- Utility
- Vacant

Exhibit D
Future Land Use Map

City Of Gautier
Planning Department



N
W E
S

Prepared by the
City of Gautier
Planning Department

Legend

FUTURE LAND USE

FLU_Class

- Civic
- high impact commercial
- Conservation
- High Density Residential
- Industrial
- Low Density Residential
- Medium Density Residential
- Mobile Home Residential
- low impact Commercial
- Recreational
- recreational commercial
- Regional Scale Commercial
- mixed use residential
- Town Center
- Very Low Density Residential

Gautier Planning Commission

Regular Meeting Agenda

December 7, 2017

Special Exception

UDO Amendment

VII. NEW BUSINESS

A. REQUEST TO AMEND THE UDO TO CREATE A SPECIAL EXCEPTION (CITY INITIATED) (GPC #17-19-UDO)

CITY OF GAUTIER
STAFF REPORT

To: Chairman and Members, Planning Commission

From: Scott Ankerson, Planning Director

Date: December 7, 2017

Subject: Consideration of an Amendment to Article IV and supporting sections of the Unified Development Ordinance to create a "Special Exception". (City Initiated) GPC #17-19-UDO

REQUEST:

The City Council has directed Planning Department Staff to draft an amendment to the Unified Development Ordinance (UDO) pursuant to Section 4.20, to create a "Special Exception".

The "Special Exception" would be relevant when an applicant seeks to establish or expand a use not ordinarily permitted in a specific district.

BACKGROUND:

The Unified Development Ordinance currently contains both Conditional Use Major and Conditional Use Minor. Such specific "Conditional Use" allowances are called out specifically in Section 5.2.2, Tables 3, 4, and 5. These "Conditional Use" allowances are specific to the use called out in these tables and are specific to the zoning district in which they are allowed. Also, a "Conditional Use Major" runs with the land, transferring from owner to owner of the specific property for which the "Conditional Use" is granted.

DISCUSSION:

The City of Gautier's Unified Development Ordinance does not currently allow for a "Special Exception". Through this proposed process, the City will create a relaxation of the terms of the Unified Development Ordinance where such an "exception" will not be contrary to the public interest, and where, owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in undue hardship. Special Exceptions would be necessary when an applicant seeks to establish or expand a use not ordinarily permitted, by right or by Conditional Use, in a specific zoning district. In addition, "Special Exceptions" would not run with the land and could be revoked if the property changes ownership, the property is being utilized in a manner not permitted under the zoning regulations or "Special Exception", or the property ceases to be used for the purpose allowed in the "Special Exception" for a period of one hundred eight (180) consecutive days during the existence of the "Special Exception".

STAFF FINDINGS:

Staff finds that the creation of the "Special Exception" will enhance the usability of specific properties within the City that have been long previously developed prior to the establishment and adoption of the Unified Development Ordinance. Such "Special Exception" may allow for certain properties to re-establish a use previously enjoyed at that specific property or a use currently enjoyed by other properties in that district.

RECOMMENDATIONS:

Staff recommends that Planning Commission recommend the approval of the UDO text changes as presented.

Planning Commission may:

1. Recommend that City Council approve the UDO Amendment;
2. Recommend that City Council approve the UDO Amendment with changes; or
3. Recommend that City Council deny the UDO Amendment.

ATTACHMENTS:

1. UDO Excerpts with proposed changes

Article, Section or Subsection	Title	Page No.
Section 4.2	Not Used	IV-3
Section 4.3	Not Used	IV-3
Section 4.4	Not Used	IV-3
Section 4.5	Building Permits	IV-3
Section 4.6	Submittals	IV-5
Section 4.7	Procedures for Subdivision or Resubdivision of Land (See Article IX)	IV-5
Section 4.8	Not Used	IV-5
Section 4.9	Guarantees and Sureties	IV-5
Section 4.10	Future Improvement Payment	IV-11
Section 4.11	Criteria for a Request to Extend the Two (2) Year Deadline to Obtain a Building Permit and Commence Construction	IV-12
Section 4.12	Development Agreements	IV-13
Section 4.13	Building Permits and Certificate of Occupancy	IV-17
Section 4.14	Actions Requiring a Planning Commission and/or City Council Review	IV-17
Section 4.15	Zoning Map Change (Rezoning)	IV-21
Section 4.16	~~Comprehensive Rezoning~~ Special Exception	IV-22
Section 4.17	Conditional Uses Both Minor and Major	IV-22
Section 4.18	Variance	IV-25
Section 4.19	Administrative Waivers for Infill Development	IV-26
Section 4.20	Unified Development Ordinance Text Changes	IV-27
Section 4.21	Home Occupation Permit	IV-27
Section 4.22	Major Development	IV-28
Section 4.23	Actions Requiring Approval by Planning Department Staff	IV-28
4.23.1	Land Alterations and Disturbance Permit	IV-29
4.23.2	Tree Removal Permit	IV-31
4.23.3	Temporary Use Permit	IV-32
4.23.4	Permit for Moving of Buildings	IV-32

GUEST HOUSE: A secondary residential structure which is detached from and incidental to the primary residence and which is designed and built to provide temporary living quarters for guests and relatives of the occupants of the principal residence.

GUN SHOP: An establishment where the principal activity involves the sale and/or repair of firearms and related supplies.

GUYED TOWER: A telecommunications tower that is supported in whole or in part by guy wires and ground.

HALF-WAY HOUSE: An establishment of four (4) or more persons primarily engaged in the provision of residential, social and personal care for individuals wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently, but where medical care is not a major element. This includes establishments for persons involved in a program of recovery from addiction to alcohol or a controlled substance and those establishments engaged in parole and/or probation programs.

HARDSHIP: ~~Hardship means the exceptional hardship that would result from a failure to grant the requested variance. The City requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.~~

Hardship means the unnecessary hardship that would result from a failure to grant the requested variance or special exception. An unnecessary hardship exists if:

(1) the land in question cannot yield a reasonable return if used only

(a) for a purpose allowed in that zone (applicable to special exceptions), or

(b) as permitted by the dimensional requirements of this ordinance (applicable to variances);

(2) that the plight of the owner is due to unique circumstances of the land for which the variance or special exception is sought; and

(3) that the use to be authorized by the variance will not alter the essential character of the locality.

HEALTH CLUB OR FITNESS CENTER: A commercial use with interior spaces designed and used for physical exercise and sports which shall include private athletic clubs or recreational clubs and/or fitness centers offering exercise rooms, locker rooms, sauna and whirlpool facilities, weight training facilities, gymnasiums, racquetball and basketball courts and swimming facilities.

HEALTH DEPARTMENT: The State of Mississippi Department of Health or its successor agency such as the Jackson County Office of the Mississippi State Department of Health.

HEAVY EQUIPMENT SALES AND RENTAL: An establishment which rents and/or sells apparatus used in construction of commercial and industrial building, or roadways, such as but not limited to, trucks, trailers, loaders, cranes, backhoes, rollers, loaders, lifts, having a gross weight of 2.5 tons or more.

SITE: Any lot or unplatted parcel or any combination of contiguous lot or unplatted parcels of land with its appurtenances and buildings having a unity of use and ownership.

SITE PLAN: A plan prepared to scale showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features, including topography, infrastructure, protected trees, and landscaping proposed for a specific parcel of land.

SKETCH PLAN: Written and graphic documents that indicate in conceptual form the proposed land uses and their location.

SLOPE: Describes the steepness, incline, gradient or grade of a straight line. A higher slope value indicates a steeper incline.

SPECIAL EVENT: A temporary outdoor use on private or public property which extends beyond the normal uses and standards normally allowed by the zoning district such as festivals, fairs, block parties or parades. Such events are scheduled and designed to attract substantial crowds and traffic and require a Temporary Use Permit.

SPECIAL EVENT SIGN: Any sign or display which advertises an event such as a fair, special or annual city-wide event.

SPECIAL EXCEPTION: a relaxation of the terms of the Unified Development Ordinance where such an exception will not be contrary to the public interest, and where, owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in undue hardship. Special Exceptions are necessary when an applicant seeks to establish or expand a use not ordinarily permitted in a specific zoning district.

SPECIAL PAVING: Interlocking pavers, bricks or special materials that are distinct from monolithic surfaces and call attention to entry areas, crosswalks and sidewalks.

SPECIAL SALES AND PROMOTION SIGN: Limited to pennants, banners, streamers, and air/gas filled figures for grand openings, anniversaries and special events.

SPECIALTY RETAIL SHOP: A commercial business that sells a limited range of merchandise, such as clothing and clothing accessories; jewelry; home and decorating accessories; crafts; antiques; musical instruments; floral arrangements; candy; hardware, bicycle and fitness equipment; cameras and electronic equipment, stationery and cards; hobby, toys and games; luggage and leather; and culinary stores. Most stores have an extensive width and depth of stock in the item they specialize in and provide high levels of service and expertise.

SPORTS FACILITY, PUBLIC: An indoor or outdoor recreational facility with seating or standing areas for the public where group sports such as baseball, softball, soccer, or hockey are played.

STABLE, PRIVATE: An accessory building which is designed and equipped to keep horses or other livestock for the private use of the property owner and not for remuneration, hire, or sale.

STABLE, PUBLIC: A principal building which is designed and equipped to keep horses or other livestock for commercial use including boarding, hire, and sale.

A. There was a mistake in the original zoning, or

B. The character of the surrounding area has changed to such an extent as to justify rezoning **AND** there is a public need for additional property to be zoned in accordance with the request.

4.15.4 Three-Fifths Council Vote Needed

In accordance with *Mississippi Code Annotated Section 17-1-17 (1972)*, in case of a protest against such change signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred sixty (160) feet therefrom or of those directly opposite thereto, extending one hundred sixty (160) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fifths (3/5) of the members of the City Council who are not required by law or ethical considerations to recuse themselves.

4.15.5 Rezoning by Court Order

In the event rezoning is required pursuant to a court order specifically establishing the zoning classification to be applicable to the property which is the subject matter of the suit, the procedural requirements of the Unified Development Ordinance for rezoning property shall not apply. A certified copy of the final court order shall be filed with the Planning Director after all available time for appeal has expired. The Planning Director shall enter the zoning change on the official zoning map and place the certified copy of the court order in the immediate area of the official zoning map, and cause the zoning change to be entered in the minutes of the City Council.

4.15.6 Public Notification

In addition to the required public notices in a newspaper of regular and general circulation in the City at least fifteen (15) days prior to the public hearing, a notice shall be posted at City Hall for the benefit of the public prior to a public hearing for a Zoning Map Change (Rezoning).

SECTION 4.16: ~~Comprehensive Rezoning~~ Special Exception

~~A comprehensive rezoning may be initiated by the following: property owners of twenty-five (25) contiguous parcels of land, the owner(s) of ten (10) acres of contiguous land, a recognized neighborhood association which includes the property involved and/or the Planning Director in consultation with the property owners affected.~~

A request for a Special Exception may be initiated by the owner or agent of the owner provided that said property has not been denied a previous request for a Special Exception for the same property or portion of property within the past twelve (12) months.

4.16.1 ~~Study Required~~ Application for Special Exception

~~Prior to recommending a Comprehensive Rezoning, the Planning Director shall conduct a study that demonstrates:~~

Applications for a Special Exception may be filed on the appropriate application available from the Planning Department and shall include all requested information, attachments, and submittals.

~~A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan, and~~

~~B. The need for additional land in the City having the same zoning classification as the one proposed; and~~

~~C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; or~~

~~D. The probability of a mapping error in the Comprehensive Plan or the Unified Development Ordinance has occurred.~~

4.16.2 ~~Public Notification~~ Procedure

~~In addition to the required public notices in a newspaper of regular and general circulation in the City at least fifteen (15) days prior to the public hearing, a notice shall be posted at City Hall for the benefit of the public prior to a public hearing for a comprehensive rezoning.~~

Once an application for a Special Exception is submitted to the Planning Department, the procedures outlined in UDO Section 4.14.1 will be followed. At the appropriate time, The Planning Commission will conduct a public hearing to determine whether the applicant meets all relevant criteria outlined below, and make a recommendation to City Council pursuant to UDO Section 4.1.4.4 (A and B). City Council, pursuant to UDO Section 4.14.4(C), will then consider the matter at its next regularly scheduled meeting and approve or deny the Special Exception.

4.16.3 Notice of Public Hearing

Notice of the public hearing for the Special Exception shall be made in a newspaper of regular and general circulation in the city at least fifteen (15) days prior to the public hearing, and a notice shall be posted at City Hall for the benefit of the public. Additionally, all adjoining property owners shall be notified by first class mail in accordance with UDO Section 4.14.3.

4.16.4 Criteria for Approval

A Special Exception is required for uses not ordinarily permitted in a specific zoning district. Special Exceptions are not permitted by right, and may only be granted when the following criteria are established:

A. That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by others of the district in which the property is located, and that interpretation of this ordinance would work unnecessary hardship upon the applicant;

B. That the requested Special Exception will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or the general welfare; and

C. That the special circumstances are not the result of actions of the applicant.

4.16.5 Limitations and Restrictions

Special Exceptions do not run with the land, and may be revoked by the Planning Department if any of the following circumstances are discovered:

A. The property changes ownership;

B. The property is being utilized in a manner not permitted under the zoning regulations or the special exception; or

C. The property ceases to be used for the purpose allowed in the Special Exception for a period of one hundred eighty (180) consecutive days during the existence of the Special Exception.

SECTION 4.17: Conditional Uses Both Minor and Major

The development and execution of this Ordinance is based upon the division of the community into districts, within which districts the use of land and building and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which are generally compatible with the land uses permitted in a zoning district, but due to their unique characteristics, require individual review to ensure the appropriateness and compatibility of the use on any particular site. Certain uses may be allowed as enumerated in each of the zoning districts established in *Article V* in accordance with the standards and procedures of this Article and the standards enumerated for each Conditional Use in the district regulations.

A hearing for a Conditional Use-Major may be conducted under two separate circumstances: (a) in conjunction with the rezoning of the property, or (b) if the property is already zoned correctly, but the use is not permitted by right. In the case of a rezoning, the Conditional Use must meet the legal threshold required for any rezoning action.

4.17.1 Who may initiate

A request for a conditional use may be initiated by the property owner or agent of the owner provided:

A. The proposed use is listed as a Conditional Use in the specific district requirements of the existing or proposed zoning district of the property, **and**

B. Said property has not been denied a previous request for the same property or portion of the property within the past twelve (12) months; **and**

C. All procedures and provisions for a public hearing have been met.

4.17.2 Application for Conditional Use-Minor

A Conditional Use-Minor requires a Finding of Compatibility (FOC) by the Planning Director. Upon application review and after consideration of the surrounding properties and nature of the proposed use, the Director may approve, approve with conditions, or deny the application. These uses do not "run with the land" and may not be transferred from one owner to the next without application for a FOC by the Director.

4.17.3 Criteria for Approval of a Conditional Use-Minor